

IN THE SUPREME COURT OF IOWA
Supreme Court No. 23-2114
Polk County Nos. FECR372327 & FECR372333

STATE OF IOWA,
Plaintiff–Appellant,

vs.

CHARLES AARON AMBLE and
JOHN JOSEPH MANDRACCHIA,
Defendants–Appellees.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE MICHAEL D. HUPPERT, JUDGE

REPLY BRIEF FOR APPELLANT

BRENNA BIRD
Attorney General of Iowa

ERIC WESSAN
Solicitor General

AARON ROGERS
Assistant Attorney General
Hoover State Office Building, 2nd
Floor
Des Moines, Iowa 50319
(515) 281-5976
aaron.rogers@ag.iowa.gov

KIMBERLY K. GRAHAM
Polk County Attorney

JEREMIAH GEFTE
Assistant Polk County Attorney

ATTORNEYS FOR
PLAINTIFF–APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES 3

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW 5

ARGUMENT..... 6

I. Iowa Code section 808.16 does not violate the Iowa Constitution, and the trash pull was legal. 6

A. Examining a 2002 amendment to the assault statute reveals that section 808.16 is a proper exercise of legislative power. 6

B. A thorough reading of section 808.16 reveals no exercise of judicial power..... 10

C. *State v. Hahn* does not remove the positive-law basis from *State v. Wright's* rule. 12

II. If Iowa Code section 808.16 conflicts with *State v. Wright*, the Court should overrule it. 12

A. The Legislature’s modification of the positive-law rationale in *State v. Wright* offers a strong reason to reconsider it..... 12

CONCLUSION..... 14

CERTIFICATE OF COMPLIANCE..... 16

TABLE OF AUTHORITIES

Federal Case

<i>Carpenter v. United States</i> , 585 U.S. 296 (2018)	13
---	----

State Cases

<i>Gravert v. Newell</i> , 539 N.W.2d 184 (Iowa 1995).....	10
<i>Miller v. Bd. of Pub. Works</i> , 234 P. 381 (Cal. 1925).....	13
<i>State v. Beck</i> , 854 N.W.2d 56 (Iowa Ct. App. 2014).....	7
<i>State v. Bedard</i> , 668 N.W.2d 598 (Iowa 2003)	7
<i>State v. Fountain</i> , 786 N.W.2d 260 (Iowa 2010).....	7
<i>State v. Hahn</i> , 961 N.W.2d 370 (Iowa 2021)	12
<i>State v. Heard</i> , 636 N.W.2d 227 (Iowa 2001).....	7
<i>State v. Keeton</i> , 710 N.W.2d 531 (Iowa 2006)	7
<i>State v. Woitha</i> , 287 N.W. 99 (Iowa 1939)	13
<i>State v. Wright</i> , 961 N.W.2d 396 (Iowa 2021).....	9, 13
<i>Wyatt v. Iowa Dept. Hum. Servs.</i> , 744 N.W.2d 89 (Iowa 2008)	7

State Statutes

2002 Iowa Acts ch. 1094, § 1	7
Iowa Code § 4.4(1).....	11
Iowa Code § 4.12.....	11
Iowa Code § 20.1	8
Iowa Code § 88.1	8
Iowa Code § 123.1	9
Iowa Code § 216D.1	9

Iowa Code § 476.53A..... 9
Iowa Code § 708.1 (2003) 7
Iowa Code § 808.16 8, 14
Iowa Const. art. I § 8 13

Other Authorities

Antonin S. Scalia & Brian A. Garner, *Reading Law: The Interpretation of
Legal Texts* (2012)..... 11

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

- I. **Did law enforcement's seizure and search of garbage outside for collection violate Defendants' rights under the Iowa Constitution's article I, section 8 considering Iowa Code section 808.16 provides: 1) garbage left for collection is abandoned; 2) Iowans have no privacy expectation in such garbage; 3) municipal ordinances cannot restrict law enforcement trash pulls or create privacy expectations in garbage; and 4) law enforcement trash pulls from publicly accessible areas are not trespasses?**

- II. **If *State v. Wright's* interpretation of article I, section 8 of the Iowa Constitution prohibits the garbage seizure and search here, and Iowa Code section 808.16 does not change that result, should the Court overrule *State v. Wright*?**

ARGUMENT

Positive law in Iowa now shows why there is no reasonable expectation of privacy in trash abandoned and left for collection in publicly accessible areas. This Court’s pivotal decision in *State v. Wright* explained how the Legislature might enact laws to protect constitutional rights yet allow law enforcement to protect Iowans from crime. The Legislature so responded. But the district court misapplied *Wright* to invalidate that response. Yet if *Wright* can be so read—to forbid changing positive law in this arena—the Court should overturn that decision.

The State’s opening brief lays out why the district court erred in granting the motions to suppress. Four of Defendants’ points merit response—three related to how section 808.16 tracks *Wright* and one concerning whether *Wright* should be overruled.

- I. **Iowa Code section 808.16 does not violate the Iowa Constitution, and the trash pull was legal.**
 - A. **Examining a 2002 amendment to the assault statute reveals that section 808.16 is a proper exercise of legislative power.**

The Legislature followed this Court’s instructions when it enacted Iowa Code section 808.16 to conform with the framework that this Court laid out in *Wright*. Defendants err when they contend that enactment usurps judicial power. Indeed, Defendants’ comparing Iowa Code section

808.16 to a 2002 amendment to the assault statute proves the State's point that the Legislature did not exercise judicial power here.

The Iowa Supreme Court in *State v. Heard* overruled earlier cases to hold the Legislature intended assault to be a specific intent crime. 636 N.W.2d 227, 231 (Iowa 2001). Disagreeing, the Legislature amended the assault statute to reinstate the pre-*Heard* rule: "An assault as defined in this section is a general intent crime." 2002 Iowa Acts ch. 1094, § 1 (codified at Iowa Code § 708.1 (2003)). The Legislature's definitional change that did not address *Heard*'s substance "acquired the patina of judicial construction," which is an invalid legislative exercise of judicial power. *See State v. Beck*, 854 N.W.2d 56, 60 (Iowa Ct. App. 2014) (describing interpretations of the 2002 amendment); *see also State v. Bedard*, 668 N.W.2d 598, 600–01 (Iowa 2003) (concluding the prefatory general intent statement did not change that the first two options required specific intent); *State v. Keeton*, 710 N.W.2d 531, 531 (Iowa 2006) (same); *State v. Fountain*, 786 N.W.2d 260, 262 (Iowa 2010) (same); *Wyatt v. Iowa Dept. Hum. Servs.*, 744 N.W.2d 89, 94 (Iowa 2008) (same). Mere announcement of a conclusion contrary to the Court's made the 2002 amendment an invalid exercise of judicial power. *Beck*, 854 N.W.2d at 60.

Section 808.16 took a different path than the 2002 assault statute amendment. It incorporated *Wright's* logic and framework, but the 2002 assault statute amendment did not incorporate *Heard's*. That is why the courts held that the 2002 amendment failed to address the substantive concerns with the earlier assault statute. Specific intent remained an element of assault under the statute, so the added prefatory language did not control.

The Legislature here took *Wright* to heart. Key to that is understanding the reasonable-suspicion-of-privacy positive-law changes the Legislature made:

- Announcing Iowa public policy that no person has a reasonable expectation of privacy in garbage place outside the home for collection.
- Preempting municipal waste collection ordinances if they purport to create a privacy right in such publicly accessible garbage.
- Deeming such garbage abandoned.
- And authorizing peace officers to search or seize such garbage.

Iowa Code § 808.16. The Legislature often announces Iowa public policy. *See, e.g.*, Iowa Code § 20.1 (declaring public policy of permitting government employees to organize and collectively bargain); *id.* § 88.1 (declaring public policy of assuring safe and healthful working conditions);

id. § 216D.1 (declaring public policy to maximize training opportunities for blind people); *id.* § 123.1 (declaring public policy of protecting “welfare, health, peace, morals, and safety” of Iowans by prohibiting traffic in alcoholic beverages except as allowed in the chapter); *id.* § 476.53A (declaring Legislature’s intent to “encourage development of renewable electric power generation,” “encourage the use of renewable power to meet local electric needs and the development of transmission capacity to export wind power generated in Iowa.”)

If the Legislature cannot amend its substantive law to respond to this Court, then the legislative prerogative more likely suffers than the judicial. And the Legislature’s changes reflect permissible exercises of legislative power, unlike the unsuccessful attempt in 2002. Had the Legislature said only “garbage anywhere is not a paper or effect” or “police may search garbage anywhere without a warrant,” *Bedard, Fountain, Keeton, Wyatt,* and *Beck* might find better purchase. Instead, section 808.16’s modification of positive law governing publicly accessible trash shows the Legislature both accepting this Court’s invitation to join the article I section 8 conversation and disagreeing with the Court’s conclusion. *See State v. Wright*, 961 N.W.2d 396, 412 n.5 (Iowa 2021) (inviting an interbranch constitutional dialogue).

B. A thorough reading of section 808.16 reveals no exercise of judicial power.

The district court erred in misreading section 808.16 to facially conflict with *Wright* and so did not analyze the statute's text. That approach lacks deference due the Legislature, which acts at the apex of its power when exercising traditional police powers. Investigating potential criminality fits into that fundamental and historical context; thus, so do the trash rips here.

Wright's deep respect for the history of the Iowa Constitution also reflects an approach to the law consistent with a deep respect for the State duly exercising its police powers retained under the federalist constitutional framework. *See, e.g., Gravert v. Newell*, 539 N.W.2d 184, 186 (Iowa 1995) (“Police power refers to the legislature’s broad, inherent power to pass laws that promote the public health, safety, and welfare.”). Here, the Legislature’s efforts to protect public safety are “presumed to be constitutional.” *Id.* Indeed, such a law should only be set aside as unconstitutional if “one challenging the validity of such laws can rebut . . . every reasonable basis upon which the laws may be sustained.” *Id.*

Defendants claim that the State’s proposed interpretation renders parts of the law surplusage. Yet multiple interpretive canons support section 808.16 as valid. A statute must be interpreted to avoid placing its

constitutionality in doubt. Iowa Code § 4.4(1); Antonin S. Scalia & Brian A. Garner, *Reading Law: The Interpretation of Legal Texts* at 247 (2012).

Relatedly, the presumption of validity also supports affirming the statute rather than voiding it. Scalia & Garner, *Reading Law* at 66. A textually permissible interpretation that furthers the purpose of legislation should also prevail. *Id.* at 63. And a statute must be interpreted in its entirety. *Id.* at 67.

A whole-statute interpretation acknowledges that section 808.16 is a permissible exercise of legislative authority even though it includes some legal conclusions. The preference for interpretations that lead to valid, constitutional statutes requires that reading. So does the preference for a reading that tracks the statute's purpose. As does the presumption against facial invalidation. Section 808.16 delineates the preconditions that allow certain seizures and searches of garbage without a warrant—and it does so in a manner prescribed by *Wright*; it does not espouse an invalid judicial construction.

Perhaps most importantly, the provisions Defendants challenge are severable. Iowa Code § 4.12. If severed, the remaining unchallenged portions allow the seizures and searches here. Defendants argue as if the Legislature had no conception of its constitutional role in government. The

State's interpretation in its opening brief preserves section 808.16, furthering the Legislature's clear purpose in allowing certain garbage seizures and searches without warrants.

C. *State v. Hahn* does not remove the positive-law basis from *State v. Wright*'s rule.

State v. Hahn did not apply the rule from *Wright* to its facts. *State v. Hahn*, 961 N.W.2d 370, 372 (Iowa 2021). Decided the same day as *Wright*, the Court remanded to allow the district court to apply the rule in the first instance. *Id.* Mandracchia's point that municipal ordinances were not involved in *Hahn* is a non sequitur because the Court undertook no analysis in its *Hahn* decision. Here, there are both municipal and State laws in play that reinforce the lack of a reasonable expectation of privacy.

* * * * *

The State asks the Court to uphold the constitutionality of section 808.16, reverse the district court's suppression order, and remand for further proceedings.

II. If Iowa Code section 808.16 conflicts with *State v. Wright*, the Court should overrule it.

A. The Legislature's modification of the positive-law rationale in *State v. Wright* offers a strong reason to reconsider it.

The Legislature weighed in on the article I, section 8 conversation by altering the positive law on which *Wright* staked so much. To be sure,

Wright acknowledged that “there may be some circumstances where the positive law” cannot be used to defeat a police officer’s ability to act without a warrant. *Wright*, 961 N.W.2d at 417 (quoting *Carpenter v. United States*, 585 U.S. 296, 402 (2018) (Gorsuch, J., dissenting)). That is not the case here. This is not the Legislature authorizing an invasion of a home or seizing of papers. *Cf.* Iowa Const. art. I § 8. Instead, it is navigating within both the historical practice and constitutional law established by this Court to craft an appropriate methodology authorizing seizure and search of trash on a curb.

As explained above and at length in the opening brief, the Legislature acted within *Wright*’s framework. But if this Court agrees with the district court that *Wright* says the Legislature can never allow warrantless searches of trash in publicly accessible areas, then this Court should overturn *Wright*. Based on *Wright*’s own logic, positive law is strong evidence for the reasonable expectation of privacy, abandonment, and other concerns that may arise from these searches. The positive law has changed. And “[t]he police power of a state is an indispensable prerogative of sovereignty and one that is not to be lightly limited.” *State v. Woitha*, 287 N.W. 99, 101 (Iowa 1939) (quoting *Miller v. Bd. of Pub. Works*, 234 P. 381, 383 (Cal. 1925)).

Now, positive law offers markers on the extent of reasonable expectations in garbage located in publicly accessible areas. Iowa Code § 808.16. *Wright* does not reflect the Legislature's positive law submission and how it shapes reasonable expectations. If this Court believes Iowa Code section 808.16 is incompatible with *Wright*, it should revisit *Wright* and overrule it.

CONCLUSION

For the above reasons, and those in the opening brief, the State asks that the Court reverse the district court's suppression order and remand for further proceedings.

Respectfully submitted,

BRENNA BIRD
Attorney General of Iowa

ERIC H. WESSAN
Solicitor General



AARON ROGERS
Assistant Attorney General
Hoover State Office Bldg., 2nd Fl.
Des Moines, Iowa 50319
(515) 281-5976
aaron.rogers@ag.iowa.gov

CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(g) and 6.903(1)(i)(1) or (2) because:

- This brief has been prepared in a proportionally spaced typeface using Georgia in size 14 and contains **1,750** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

Dated: November 25, 2024

A handwritten signature in blue ink, appearing to read "Aaron Rogers", is written over a horizontal line.

AARON ROGERS

Assistant Attorney General
Hoover State Office Bldg., 2nd Fl.
Des Moines, Iowa 50319
(515) 281-5976
aaron.rogers@ag.iowa.gov